SUPREME COURT, U. S.

FILED
JAN 13 1967
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 241

NATIONAL BELLAS HESS, INCORPORATED,
Appellant,

v.

DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS FOR THE USE OF THE PEOPLE OF THE STATE OF ILLINOIS,
Appellee.

APPEAL FROM THE SUPREME COURT OF ILLINOIS

BRIEF OF AMERICAN HERITAGE PUBLISHING CO., INC. AS AMICUS CURIAE

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January 12, 1967

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BRIEF OF AMERICAN HERITAGE PUBLISHING CO., INC. AS AMICUS CURIAE

This brief is submitted with the written consent of counsel for both parties, filed with the Clerk of the Court.

Interest of the Amicus Curiae

American Heritage Publishing Co., Inc. ("Heritage"), a New York corporation with offices in New York City, publishes the hardcover magazines AMERICAN HERITAGE and HORIZON and books on historical, cultural and educational subjects. AMERICAN HERITAGE is a scholarly, but

artistic and graphic, magazine of American history established with the enthusiastic support of distinguished educators, historians and eminent citizens for the purposes of educating the public and advancing historical writing. In 1954 Heritage began publishing AMERICAN HERITAGE in its present format with the sponsorship of the Society of American Historians and the American Association for State and Local History and under the editorship of Bruce Catton. In 1958 Heritage began publishing HORIZON, a cultural magazine devoted to the arts, archeology and the entire field of world civilization.

Because of the absence of bookstores from many parts of the United States and their diminishing number in the major cities, Heritage has had to improvise its own retailing techniques for its specialized publications. Heritage solicits orders by direct mail advertising and by advertisements in national magazines.[1] Heritage receives orders by mail, which it accepts outside Illinois; mails the ordered publications to its customers;[2] and bills its customers and receives their remittances by mail.

Heritage has not attempted to collect sales or use taxes on its sales to residents of states other than New York because of its belief that the states cannot validly impose the duty of collection upon direct-mail vendors having no business location or employee in the taxing state. That this belief is generally held is shown by the recent finding of a Congressional Subcommittee that "[c]ollection or payment

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[1]Representative direct mail and magazine advertisements are appended.

[2]A relatively minor portion of Heritage's publications are sold, through the medium of trade publishers, to schools and by bookstores. Heritage is not the retail seller of these items; the bookstore or other retail seller has the responsibility to collect and remit any state or local sales tax.

of sales tax in a State where a firm does only mail-order business is virtually unknown."[3]

Illinois is now attempting to assess against and collect from Heritage thousands of dollars in use taxes with respect to mail-order sales made to Illinois residents since July 1, 1963, even though Heritage has no business location or employee in Illinois. Illinois—along with 20 other states—has enacted legislation requiring out-of-state retailers who solicit orders in the state by means of catalogs or other advertising to collect and remit use taxs on articles sold for use in the state, even though they have no business location or employees within the state. The legislation provides that the tax required to be collected by the retailer, whether or not actually collected, constitutes a debt owned by the retailer to the state.

Alabama is the only other state that has attempted to force Heritage to collect use taxes on its mail-order business. Alabama's attempt failed because the Alabama Supreme Court, on January 21, 1965, held that Alabama could not constitutionally require mail-order sellers to collect the use tax. *State* v. *Lane Bryant, Inc.*, 277 Ala. 385, 171 So. 2d 91 (1965). Affirmance of the decision below would validate the claim of Illinois, revive the claim of Alabama and encourage the other 19 states having similar statutes to make similar assessments with respect to both past and future sales, amounting to many thousands of dollars. Heritage could not collect the tax on past sales from its customers and, as we show in the argument below, could not efficiently collect the tax on future sales.

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[3]Report on State Taxation of Interstate Commerce (Special Subcommittee on State Taxation of Interstate Commerce, Committee on the Judiciary, House of Representatives), H. Rep. 565, 89th Cong., 1st Sess. 772 (1965). This Report (hereinafter cited "Report") was prepared after an exhaustive study spanning several years and including extended hearings and numerous questionnaires.

The Statutes

The Illinois Use Tax Act, section 3 (Ill. Rev. Stats. [1963] ch. 120, § 439.3) provides in pertinent part:

> "§ 3 A tax is imposed upon the privilege of using in this State tangible personal property purchased at retail. . . .
>
> * * *
>
> "The tax hereby imposed shall be collected from the purchaser by a retailer maintaining a place of business in this State . . . and remitted to the Department. . . ."

Section 2, as amended by the Act of July 17, 1961 (Ill. Rev. Stats. [1963] ch. 120, § 439.2) defines "retailer maintaining a place of business in this State" as used above:

> "'Retailer maintaining a place of business in this State', or any like term, shall mean and include any retailer:
>
> * * *
>
> "2. Engaging in soliciting orders within this State from users by means of catalogues or other advertising, whether such orders are received or accepted within or without this State."

Question Presented

The Illinois Use Tax Act requires any out-of-state retailer that solicits orders in Illinois by advertisement—even though it has no business location or employee in Illinois—to collect and remit use taxes upon merchandise sold for use in Illinois. The Act makes a retailer that fails or is unable to collect the tax from the purchaser directly

liable for the tax. The question presented is whether these provisions of the Act violate the Due Process Clause of the Fourteenth Amendment to or the Commerce Clause of the United States Constitution.

Argument

The Illinois Use Tax Act imposes on out-of-state mail-order retailers, such as Heritage and the appellant, the duty to collect and remit the use tax levied on the customer's use of the purchased article within Illinois. The Act makes the out-of-state retailer the insurer of the tax, since it requires the retailer to remit the tax whether or not the retailer can and does collect it. The Act, in imposing these duties upon out-of-state mail-order retailers having no business location or employee within Illinois, creates an unconstitutional burden on interstate commerce and is a denial of due process of law.

A. The Laws Involved and Their Impact.

1. *The laws.* Forty-two states now impose retail sales taxes and compensating taxes on the use of goods brought into the state. Twenty-one of these state statutes make the mere sending of advertisements into the state a sufficient basis for requiring out-of-state retailers to collect and remit use taxes.

In addition, compared to a handful 20 years ago, by the end of 1964 a total of 2,329 local governmental units—composed of 2,133 municipalities, 194 counties, and 2 school districts—had sales taxes.[4] At that time 701 of these also had compensating use taxes.[5]

Since the date of the decision below—January 25, 1966—three states have enacted sales and use tax statutes contain-

[4]Report 845.
[5]*Id.* at 846.

ing the advertising provision[6] and one state has amended its sales and use tax statute to include such a provision.[7] Affirmance of the decision below would accelerate this legislative trend at the state level and encourage its expansion on the local level. Affirmance would also result in a wave of enforcement activities against out-of-state mail-order retailers, resulting in heavy liabilities for use taxes that they did not and were not seriously expected to collect from their customers in the past,[8] and cannot efficiently collect in the future.

2. *The industry affected.* The advertising provisions of the state and local use tax laws are obviously aimed at the middle-sized and smaller mail-order retailers. The 1963 Census of Business reported 4,206 mail-order establishments with annual sales of almost $2.4 billion.[9] Nearly three-quarters of these sales were catalog sales of the five leading mail-order houses.[10] Since three of these houses also have retail outlets nationwide and the other two have outlets in certain states, they are wholly or substantially subject to taxation under existing constitutional interpretations.[11] These large houses collect and remit sales or use taxes on an annual sales volume of approximately $1.1 billion.[12]

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[6]Massachusetts Retail Sales Tax and Use Tax, ch. 14, Acts, 1966; New Jersey Sales and Use Tax Act, ch. 30, Laws of 1966; Virginia Retail Sales and Use Tax Act, Tit. 58, ch. 8.1, Code of Virginia 1950 as amended by ch. 151, Laws 1966.

[7]Rhode Island Sales and Use Tax Act, ch. 18 and 19 of Title 44 of the General Laws of Rhode Island, 1956, as amended by H. B. 1730, Laws 1966.

[8]See Report 772 and text at note 3, supra.

[9]Statistical Abstract of the United States 815 (1966) and Report 772.

[10]Report 772.

[11]Nelson v. Sears, Roebuck & Co., 312 U. S. 359 (1941); Nelson v. Montgomery Ward & Co., 312 U. S. 373 (1941).

[12]Report 772.

Although they account for the bulk of the sales, these large houses are only a tiny minority in number of all mail-order businesses. The great majority of mail-order businesses are very small, making only a few thousand dollars of sales annually.[13] Many are part-time operations[14] and one-man shops[15] that fill their few orders of an evening out of a limited inventory. Indeed, there are more small mail-order operations than indicated by the census, since the census omitted data for firms with less than $2,500 in annual sales. Also omitted from the census were many businesses that solicit orders for one or a few items by spot advertisements in special interest periodicals.[16] The Special Subcommittee on State Taxation of Interstate Commerce concluded in its study that "it becomes difficult to find any justification for a State's imposing its collection requirements on companies of this kind."[17]

3. *What Compliance entails.* Compliance by an out-of-state mail-order business with a state's use tax requirements begins with registration with the state[18] and, often, the posting of security.[19]

The mail-order seller must attribute each transaction to the proper taxing jurisdiction. This may not be too difficult in the case of state taxes, but correct attribution becomes more and more difficult as the seller must determine

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[13] *Id.* at 770.

[14] Millican, *Selling by Mail-Order,* Small Business Bibliography (U. S. Small Business Administration Pub. No. 3, January 1965 Revision).

[15] Statistical Abstract of the United States 814 (1966).

[16] Report 773.

[17] *Id.* at 774.

[18] Hawaii, the single exception, requires no registration: *Id.* at 679.

[19] Illinois has a mandatory security requirement, Section 12, Illinois Use Tax Act (Ill. Rev. Stats. [1963] ch. 120, § 439.12) incorporating by reference Section 2a, Illinois Retailers' Occupation Tax Act (Ill. Rev. Stats. [1963] ch. 120, § 441a).

into which of ever smaller taxing jurisdictions the goods are headed.[20] Inquiry addressed to the prospective purchaser, which may be the only key to attribution, will usually either evoke no reply or kill the transaction.

Next, the mail-order seller must determine whether the particular transaction is taxable or not. Sales for resale are universally not taxed;[21] sales for incorporation into an item ultimately for resale commonly are not. Additionally, there are categories, which vary widely from state to state, of exempt property and exempt purchasers. Nontaxability is usually established by obtaining a resale or exemption certificate from the purchaser, which vary in form and requisites for validity.

Reporting requirements vary from state to state. In 1965, about one-half of the taxing states required reporting on an accrual basis, two favored cash reporting and the rest gave a choice. A number of states required one method for sales and another for use taxes.[23] The rules of the accrual basis states with respect to bad debts vary, and few mail-order sellers are equipped to maintain a separate set of bad debt records for every taxing jurisdiction.

Demands for detail and itemization of deductions also differ widely. One state may lump together all sales to exempt persons and institutions, while another will provide a separate line for each type of exempt sale.[25] An interstate vendor must either record all sales in sufficient detail to meet the requirements of the most demanding state, or maintain different kinds of records for each taxing jurisdiction. "Either choice means extra compliance effort for the multistate firm."[24]

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[20]Report 863.
[21]*Id.* at 645.
[23]*Id.* at 688.
[25]*Id.* at 693.
[24]*Ibid.*

The frequency of tax filings and remissions also multiplies the work of an interstate firm. Nearly three-quarters of the sales tax states require sellers to file sales tax reports monthly; somewhat fewer require monthly use tax reports.[25] These returns must be filed regardless of whether any taxable sales are made into the state.[26] "To a seller with little or no taxes to remit, having to file numerous returns is particularly vexatious."[27]

Remission of the tax is not the final step, for audit, which can be made only at the vendor's office, frequently ensues. The number of taxing jurisdictions has reached the point at which audit can be a continuous process. The vendor not only loses the time and energies of its own personnel, but is often required to defray the travel and per diem expenses of the visiting state auditors.[28]

Finally, there is the problem and expense of keeping abreast of constant statutory and interpretative changes in the rules of distant jurisdictions and of the mushrooming enactment of new state and local taxes and new advertising collection requirements.

4. *Costs of Compliance.* The Subcommittee on State Taxation of Interstate Commerce has undertaken a study of the costs of compliance with sales and use tax requirements for one hundred businesses with multistate operations.[29] The businesses studied ranged from companies present and qualified to do business in various states to

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[25] *Id.* at 694.

[26] Exhibit A, Statement of Charles H. Schreyer, representing the Manufacturers Association of Connecticut, Inc. and the Conference of State Manufacturers Associations, Hearings before the Special Subcommittee on State Taxation of Interstate Commerce, Committee on the Judiciary, House of Representatives, 87th Cong., 2d Sess. 25-29 (1962).

[27] Report 696.

[28] *Id.* at 698.

[29] *Id.*, ch. 25.

companies whose connections with the taxing states were as attenuated as those of the appellant and of Heritage.

The heaviest expense of the interstate companies was that of recordkeeping, resulting partly from complexities inherent in multistate selling.[20] The Subcommittee concluded that "a small mail-order business charging sales tax wherever applicable would be in an unfortunate cost position as to records alone. . . ."[21] Other expenses included those of filing (which not uncommonly exceed the amount of tax remitted), training, study, planning and supervision.

Although the Subcommittee found the overall costs bearable for most types of interstate companies studied, it cautioned that mail-order businesses present a special problem:

> "An exception must be made to this conclusion for the interstate seller in a low volume, low unit-price business—typically, the small mail-order business. . . . The interstate seller of consumer goods . . . . has the same costs as a local firm selling the same types of items plus the added costs of complying with the laws of many States at once. No small mail-order house has been found which collected sales tax for more than one or two States; however, the study of cost relationships in other forms of business strongly indicates caution for cost reasons alone toward extension of the collection responsibilities of this special form of interstate seller."[22]

The Subcommittee concluded in its Report that compliance by small mail-order businesses with the require-

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[20] *Id.* at 803.
[21] *Id.* at 804.
[22] *Id.* at 812.

ment that they act as the states' use tax collectors is "almost out of the question."[33]

5. *The Collection Dilemma.* The most serious problem—that of collecting the tax from the mail-order customer—remains to be discussed.

Mail-order retailers face difficulties in collecting use taxes that are not shared by out-of-state retailers that solicit through salesmen. The latter collect the tax with practically the same ease as local over-the-counter retailers, because the salesman computes the tax in taking the order and the customer, at the time he signs the order, sees the computation of the tax and agrees to pay it. There is simply no way in which the retailer that solicits by mail or through national publications can obtain the same degree of consumer acceptance of the tax.

Mail-order retailers would find it prohibitively expensive to prepare a different set of advertising brochures for every taxing state or locality. It would be equally impractical for them to embody a list of all state and local sales tax computations in its direct-mail advertising material. Advertising in national publications presents precisely the same problems. (See in this connection the appended advertising material.) The mere statement in the mail or magazine advertisement that state or local sales tax will be computed and added to the sales price would generally be overlooked or forgotten and, therefore, would not substantially promote customer acceptance of the tax.

The results are (1) that the customer who sends in his payment with his order generally will not compute and pay the tax[34] and (2) that the customer who is billed later will

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[33] *Id.* at 773.

[34] When, as is often the case, the cash customer pays the sales price but not the tax, the mail-order retailer has the option of rejecting the order, sending out the merchandise with a request for payment of the tax that he knows from experience will probably be ignored, or absorbing the loss. Usually he will choose the last course.

resent the unexpected computation and charging of the tax. He may express his resentment by returning the purchased article (a privilege generally available to mail-order purchasers), by eliminating the tax from his payment, by protesting that the charge had not been agreed to, or by questioning the validity of the tax charge. The mail-order retailer must either (1) charge the tax and accept the resulting loss of sales, inconvenience and customer ill-feeling, as well as a substantial percentage of noncollection,[35] or (2) forego the charge and simply absorb the tax. A substantial part of the mail-order industry finds the latter the less painful alternative.

In short, the problem is that for mail-order transactions the decision to buy and the levy of the tax do not coincide. The mail-order seller simply cannot create the simultaneity of sale and tax computation that is the only key to a high degree of customer acceptance and remission of the tax. Other sellers can successfully discharge their tax collection duty; the mail-order seller cannot. The collection duty would turn the mail-order retailer, not into a tax collector, but into a taxpayer. Inescapably, regardless of whether he attempted to charge and collect the tax, he would have to bear all or a substantial part of the tax burden directly.

Therefore, the mail-order retailer has, in addition to the costs already discussed, the cost as insurer of collection. Vendors who fail to collect the tax do so at their peril, for they must remit the tax to the state regardless of whether they collect it from the customer. The mail-order business with no personnel in the taxing state, faced with the lowest rate of customer compliance, is again in the worst position.

6. *The Lack of Benefit conferred by the Taxing State.* The Subcommittee found that the basic cause for failure

[35] See Report 771 as to reported rates of noncollection.

to comply with use tax collection requirements of foreign states was "the common element of tenuous nexus, of a relationship which is sufficiently indirect that companies feel no strong sense of identification with the State."[86] For the pure mail-order seller there must be added to the lack of relationship and identification the total lack of benefit conferred by the taxing state.

The typical mail-order seller has no personnel or property receiving any benefit from the foreign state's laws; he does not use its roads or other facilities; he does not seek the protection of its police force; his sales are individually so small that he never resorts to its courts for collection; in sum, he receives nothing of benefit from the state's laws or administration. The state, being powerless to interfere with his use of the mails in interstate commerce, has not even any regulatory or permissive function to exercise. It is the lack of benefit conferred in relation to the excessiveness of the burden imposed that is the vice of the advertising provisions of the state use tax law.

B. As Applied Here, the Illinois Statute in Issue Is Unconstitutional.

The years since the Great Depression have seen the various states and municipalities seek ever more energetically and ingeniously for new sources of tax revenue. A spate of litigation has resulted, and this Court has repeatedly been required to determine whether a state might constitutionally lay its taxing hand upon a particular individual or enterprise. These decisions have seen some of the Court's more memorable divisions.

But as we read the opinions, those in dissent and concurrence as well as those for the Court, on this proposition

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[86] *Id.* at 732.

there would appear to be accord: the Due Process Clause and, *a fortiori,* the Commerce Clause are offended by a state's attempting to impress into tax-collection service a seller who enters the state's borders only via the mails.

1. *The Lack of Connection with Illinois.* Review of these authorities may best begin with *Miller Bros. Co.* v. *Maryland,* 347 U. S. 340 (1954). There, it will be recalled, Miller Brothers operated a store in Wilmington, Delaware. It had no place of business or employees outside of Delaware, and it made sales only over-the-counter on its Delaware premises. However, Miller Brothers did advertise in Delaware newspapers which had some circulation in Maryland, as well as on radio stations whose signals reached into Maryland. And sales circulars were mailed to former customers in Maryland. Responding to these various advertisements, some Maryland residents visited the Miller Brothers store in Wilmington and made purchases. Upon request, Miller Brothers delivered the purchased items to Maryland purchasers either by common carrier or by its own truck—over a four-and-a-half year period, the Miller Brothers' truck delivered approximately $8,000 worth of merchandise to Maryland.

Maryland interpreted its use tax law to require Miller Brothers, in these circumstances, to collect and remit its tax on goods destined for Maryland. Miller Brothers did not collect and pay over the tax. Thereupon, in an effort to enforce the tax, Maryland seized Miller Brothers' delivery truck while it was within Maryland's borders.

The Court held Maryland's action offensive to the Due Process Clause. Said the Court, at 344-5:

> ". . . due process requires some definite link, some minimum connection, between a state and the person, property or transaction it seeks to tax."

In the view of the majority, even the regular visits to Maryland by the Miller Brothers' delivery truck did not establish a sufficient link. The Court concluded, at 347:

> "That these inhabitants [of Maryland] incurred a liability for the use tax when they used, stored or consumed the goods in Maryland, no one doubts. But the burden of collecting or paying their tax cannot be shifted to a foreign merchant in the absence of some jurisdictional basis not present here."

For the dissenters, Mr. Justice Douglas noted first the "minimal burden" which the duty to collect the tax would impose upon Miller Brothers:

> "When appellant's sales clerks make out the sales slips and arrange for the shipment of the purchased goods, they surely will know which are destined for Maryland, which for some other State. Hence to make appellant add the Maryland use tax to the bill when the purchaser requests that the goods be shipped to Maryland is only a minimal burden." 347 U. S. at 357.

The dissent then pointed to the advertising campaign aimed by Miller Brothers at Maryland customers and to the "regularly effected" deliveries by Miller Brothers' own truck. Accordingly, "This is not a case of minimal contact between a vendor and the collecting State." 347 U. S. at 358. Due process, the dissent concluded, was satisfied.

The rationales of both majority and dissent in *Miller*, we suggest, lead to the conclusion that Illinois infringes upon the Due Process Clause when it attempts to make tax collectors of enterprises like the appellant and Heritage —which enter the state only by mail.

So far as the *Miller* majority is concerned, there is less "link" or "connection" between the appellant or Heritage and Illinois than there was between Miller Brothers and Maryland. For Miller Brothers not only mailed and broadcast into Maryland; it regularly sent its truck and its driver-employees into the state.

And neither of the two considerations which impressed the *Miller* dissenters is present here. First, as we have seen, a heavy burden would be imposed upon Heritage or any exclusively mail-order enterprise, were it obliged to collect the tax: it has no face-to-face contact with its customers, such as Miller Brothers had, at which the tax may be calculated and collected. Rather, the real consequence of making Heritage a tax collector would be to make it a taxpayer.

Second, Heritage's contacts with Illinois are surely "minimal" as the *Miller* dissent used the term: no Heritage truck or employee ever enters the state, only its mailings and advertisements. It would appear, accordingly, that the *Miller* dissent would not support Illinois in the matter at bar.

Miller's authority is today unchallenged. Its central thesis—that due process requires *some* connection between a taxing state and an out-of-state vendor—has been restated repeatedly, *Scripto, Inc.* v. *Carson*, 362 U. S. 207, 210-11 (1960); *American Oil Co.* v. *Neill*, 380 U. S. 451, 458 (1965). Here that connection is lacking.

2. *The Lack of Benefit conferred by Illinois.* We may take guidance also from *Wisconsin* v. *J. C. Penney Co.*, 311 U. S. 435 (1940), a case pertinent here not for its holding but for its careful articulation of the requirements of due process in a taxation context. There, Wisconsin sought to collect a tax on the payment of dividends from a foreign corporation licensed to do business in Wisconsin.

Sustaining the tax against a Fourteenth Amendment attack, the Court said, per Frankfurter, J., at 444:

> "A state is free to pursue its own fiscal policies, unembarrassed by the Constitution, if by the practical operation of a tax the state has exerted its power in relation to opportunities which it has given, to protection which it has afforded, to benefits which it has conferred by the fact of being an orderly, civilized society.
>
> * * *
>
> "[The] . . . test is whether property was taken without due process of law, or, if paraphrase we must, whether the taxing power exerted by the state bears fiscal relation to protection, opportunities and benefits given by the state. The simple but controlling question is whether the state has given anything for which it can ask return."

Thus, due process imports a kind of bargain: when the state performs a service, it may impose a duty, but it may not lay its taxing hand upon a distant enterprise to which it offers nothing. The *Penney* test was later approved and applied as the test of validity under the Commerce Clause, *General Motors Corp.* v. *Washington*, 377 U. S. 436, 440-41 (1964):

> "[T]he validity of the tax rests upon whether the State is exacting a constitutionally fair demand for that aspect of interstate commerce to which it bears a special relation. . . . In other words, the question is whether the State has exerted its power in proper proportion to appellant's activities within the State and to appellant's consequent enjoyment of the opportunities and protections which the State has afforded."

Applying that test to the facts at bar, it appears that Illinois here would impose a heavy burden upon the appellant, upon Heritage and upon other mail-order enterprises, but offers them nothing in return. They do not avail themselves of its police protection or health or any other service—from Illinois they ask and receive nothing: Their reliance is entirely on a federal instrumentality: the mails. In consequence, for Illinois to attempt to compel them to collect its taxes is offensive to due process and to the Commerce Clause.

Conclusion

The decision below should be reversed.

Respectfully submitted,

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January 12, 1967

A CATALOGUE OF ITEMS IN

THE AMERICAN HERITAGE SUNDRY DEPARTMENT

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AMERICAN HERITAGE
1925
AMERICAN HERITAGE

Back Issues of AMERICAN HERITAGE

ISSUES NO LONGER AVAILABLE: *First two years* (December 1954-December 1956), April 1957, August 1957, April 1958, December 1959, December 1960, February 1963, April 1963, April 1965.

Available issues, with a few highlights from each:

FEBRUARY 1957—An interview with a Sioux Indian who said he killed Custer...discovery of a hitherto unknown conspirator in the plot to murder Lincoln. **(014)**

JUNE 1957—A color portfolio of Currier & Ives...how two spinsters gave women's suffrage a boost...J. P. Morgan's one-man fight against the panic of 1907. **(016)**

OCTOBER 1957—The first man to walk across the continent . . . a secret operation on President Cleveland...two lost letters of Mark Twain and Walt Whitman. **(018)**

DECEMBER 1957—"An Iowa Christmas"... "The Gibson Girl"...eyewitness recalls Pickett's charge...Stewart H. Holbrook retells Carry Nation's shattering exploits. . . . T. R. on the telephone. **(019)**

FEBRUARY 1958—"Unwanted Treasures of the Patent Office"...Henry Ford's peace ship ...Lucius Beebe tells the real story of driving the golden spike. **(020)**

JUNE 1958—"The Battle of the Saintes" by C. S. Forester...the first great Texas oil strike...George C. Tilyou, "The Master Showman of Coney Island." **(022)**

AUGUST 1958—Henry Steele Commager tells of "Jefferson and the Book Burners"... Bruce Catton on the battle of Antietam... the great Niagara tight-rope walker. **(023)**

OCTOBER 1958—"Was John Smith a Liar?"... the infamous slave trade...Cyrus Field's Atlantic cable...Isaac Singer and his "Wonderful Sewing Machine." **(024)**

DECEMBER 1958—How American and Soviet armies first met in battle..."A Victorian Christmas Album" in color..."The Hawthornes in Paradise," by Malcolm Cowley . . ."Ghosts in the White House" **(025)**

FEBRUARY 1959—"The Marine Tradition"... "The Stanleys and Their Steamer"..."Pioneers and Petticoats"...a rare collection of pre-Columbian gold objects. **(026)**

APRIL 1959—"The Elizabethans and America," by the English authority A. L. Rowse ...the case of the runestone hoax..."Puccini in America." **(027)**

JUNE 1959—The gallant defense of Wake Island:..New York's bloody draft riots... "The Last of the Bosses," James Michael Curley...covered bridges in color. **(028)**

AUGUST 1959—"Prison Camps of the Civil War" by Bruce Catton...a portfolio of old railroad cars...bareknuckle boxing's last great fight. **(029)**

OCTOBER 1959—Edison: the last days of a wizard...life at Monticello, by one of Jefferson's slaves...the author of "What Price Glory" recalls World War I. **(030)**

FEBRUARY 1960—How an American radical won a

hero's burial inside the Kremlin...Wilbur Wright teaches Europe to fly . . . "Arthur Vandenberg," by Dean Acheson. **(032)**

APRIL 1960—America's first frogman...how T.R. stopped a great coal strike...a comically cold war between the U.S. and England...ice-age footprints. **(033)**

JUNE 1960—A profile of our last king, by Dr. J. H. Plumb...the true story of the 1919 "Black Sox" baseball scandal...how New York gave the Russian fleet a ticker-tape parade in 1863...an Arctic ordeal. **(034)**

AUGUST 1960—Robert L. Heilbroner's portrait of steelmaster Andrew Carnegie...an unorthodox view of rural America...the real faces of the wild west. **(035)**

OCTOBER 1960—The Chicago Columbian Exposition of 1893, in color...Quantrill, the ruthless guerilla whose Kansas raids in 1863 became legend...the days when billions of locusts plagued the plains. **(036)**

FEBRUARY 1961—The real story of the Alamo ...John Holland, father of the submarine ...General Wm. Mitchell's account of the first Alaskan telegraph. **(038)**

APRIL 1961—A Briton re-examines the American Revolution...Samuel F. B. Morse, a 14-page color portfolio...a portrayal of Lincoln by his telegrapher. **(039)**

JUNE 1961—Mari Sandoz on "Dakota Country"..."The Passing of the Passenger Pigeon"...the Yalta Conference..."When Rubber Checks Didn't Bounce." **(040)**

AUGUST 1961—Lord of San Simeon: William Randolph Hearst...volcanic destruction of Martinique...Billy Sunday...Mark Twain embarrasses Winston Churchill. **(041)**

OCTOBER 1961—The guiding light of the gridiron, Walter Camp . . . a behind-the-scenes account of "Fiorello's Finest Hour" ...Cornwallis at Yorktown. **(042)**

DECEMBER 1961—"Bryan" by John A. Garraty ...the personal scrapbook of P. T. Barnum ...Washington Irving, "The Sunny Master of Sunnyside"...a rare daguerreotype of an aging Andrew Jackson...Peter Stuyvesant and his men in an 11" x 33" print. **(043)**

FEBRUARY 1962—How the U.S. Marines captured Guantanamo Bay...the man who planted the George Washington cherry tree legend..."The Face of Maine." **(044)**

APRIL 1962—Hemingway with the Paris liberation army...Peary vs. Cook: "Who Discovered the North Pole?"...the exploits of sharpshooter Annie Oakley. **(045)**

JUNE 1962—Startling new evidence in the Sacco-Vanzetti case...Black Jack Pershing's wild goose chase...Francis Biddle on the World War II cabinet. **(046)**

AUGUST 1962—The dirtiest Presidential campaign...the private lives of the first Siamese Twins...how the soda fountain began... Benjamin Latrobe portfolio. **(047)**

OCTOBER 1962—"The Electoral College" and why it fails...Booker T. Washington...a vision that began Mormonism...did the Pilgrims land on Plymouth Rock? **(048)**

DECEMBER 1962—"Gold!"—the '49ers who mined and died for it...the struggle for Henry Ford's empire... the death of Mormon prophet Joseph Smith. **(049)**

JUNE 1963—"The Supreme Court," and its profound impact on American life... the 1932 "Bonus March"... "Bloody Belleau Wood"

by Laurence Stallings . . . "Phantom Cities"..."The Day Jefferson Got Plastered." (052)

AUGUST 1963 — An on-the-spot report of the great Chicago Fire . . . Colonel House's rift with President Wilson . . . Justice Marshall's Dartmouth College decision. (053)

OCTOBER 1963 — The truth behind the story of Washington praying at Valley Forge...a nostalgic glimpse of a cowboy's life..."Old Abe," the only veteran of the Civil War to be stuffed and mounted...is John Henry man or myth?..."The Strike That Made a President." (054)

DECEMBER 1963—Dred Scott decision..."Vice vs. Virtue"...Coolidge's lamplight inauguration...a collection of turn-of-the-century theatre posters. (055)

FEBRUARY 1964—"On History," by John F. Kennedy..."The Great White Fleet"... Mason & Dixon, their line and its legend... the Johnson-Jeffries bout. (056)

APRIL 1964—Maximilian and Carlota, France's puppet monarchs on the shaky throne of Mexico...the mystery of Lizzie Borden..."The Birth of Jim Crow." (057)

JUNE 1964—The Coatesville, Pa., lynching, by Eric F. Goldman...Sitting Bull and his mystic Ghost Dance...the *first* (not the famous) flag-raising on Iwo Jima..."The Thundering Water," by Bruce Catton. (058)

AUGUST 1964—Special Issue: *The Presidency* Richard Rovere on the nature of the highest office...great moments of Presidential decision...White House photos from Polk to present...a gallery of First Ladies. (059)

OCTOBER 1964—The scrimshaw collection of John F. Kennedy...early photographs of the frontier..."The American Bluebeard," who went through 43 wives and their fortunes...Jefferson the Gourmet..."Coast to Coast in Twelve Crashes." (060)

DECEMBER 1964—"Why Washington Stood Up In The Boat"...Robert L. Heilbroner reveals how Rockefeller built his fortune... a portrait of L. Frank Baum, "The Father of the Wizard of Oz." (061)

FEBRUARY 1965—The scandal of "The Harding Papers"...Pike and his peak...an eyewitness account of the sinking of the *Eastland*...Brigham Young's last wife. (062)

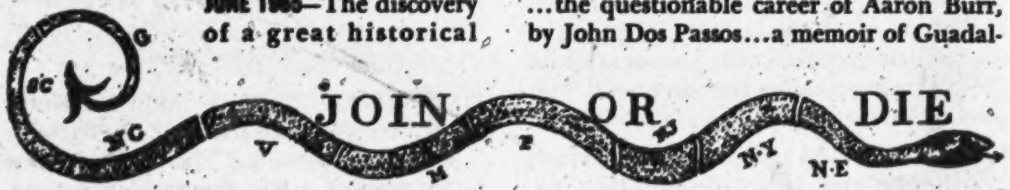
JUNE 1965—The discovery of a great historical painting, *Washington at Monmouth* (companion to *Washington Crossing the Delaware*)...Walter Lord on the history of civil rights in Mississippi...a veteran of Bull Run tells of the battle. (064)

AUGUST 1965—Special Issue: *The Twenties*—the Valentino funeral...the oil scandal at Teapot Dome...a John Held, Jr., portfolio ...the heyday of the KKK...Babe Ruth... "Great Photographs of the Decade." (065)

OCTOBER 1965—An important discovery: the oldest known map of the New World (1440) ...the Wyeth family of fine painters, with a portfolio of 20 paintings in color . . . an American revolutionary spy..."History As a Judge," by Henry Steele Commager. (066)

DECEMBER 1965—"Canada," an essay by Hugh MacLennan with a 45-page picture portfolio in color..."The Day The Balloon Came To Town," by Murry Falkner (brother of Nobel-novelist William)...how scrappy Sam Houston's last fight for the Presidency was foiled...a history of Burma-Shave signs. (067)

FEBRUARY 1966—"Audubon In The Original" ...the questionable career of Aaron Burr, by John Dos Passos...a memoir of Guadal-



canal, "I've Served My Time In Hell"... the unveiling of Miss Liberty... the growth of the whisker fashion. (068)

APRIL 1966—"Was America Discovered By A Fifth-Century Chinese Priest?"... the Vanderbilt family and their scramble for the Commodore's $100 million... the story of Lucy Flucker, whose extravagant tastes matched those of her famous husband, Henry Knox... the heyday of the interurban... Ned Buntline. (069)

JUNE 1966—An evaluation of "The Place of Franklin D. Roosevelt In History," by Allan Nevins... the terror-filled story of the Johnstown flood... an eyewitness account of the death of John Wilkes Booth. (070)

AUGUST 1966—The high-flying adventures of "Carlotta, The Lady Aeronaut"... Hanson W. Baldwin on "The Fall of Corregidor" ...the flamboyant Long family of Louisiana ...how John Henry Patterson invented modern salesmanship. (071)

OCTOBER 1966—Louis Auchincloss presents a gallery of "New York's First Families"... a portfolio of rare paintings show what Jewish immigrants to America left behind... the day Benedict Arnold fought the first fleet action of the Revolution. (072)

PRICES: 1954-1956, *Out of Print*
1957-1960, *$5.95 per issue*
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AMERICAN HERITAGE INDEXES

An index transforms a year of AMERICAN HERITAGE into a fine history reference shelf. Each 26-page *Annual Index* is the same page size as the magazine and lists alphabetically all places, names, titles, subjects, and authors in six issues. A cross index lists all pictures by subject, artist, and title.

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Dec. 1954-Oct. 1955	Vol. VI	(552)
Dec. 1955-Oct. 1956	Vol. VII	(553)
Dec. 1956-Oct. 1957	Vol. VIII	(554)
Dec. 1957-Oct. 1958	Vol. IX	(555)
Dec. 1958-Oct. 1959	Vol. X	(556)
Dec. 1959-Oct. 1960	Vol. XI	(557)
Dec. 1960-Oct. 1961	Vol. XII	(558)
Dec. 1961-Oct. 1962	Vol. XIII	(559)
Dec. 1962-Oct. 1963	Vol. XIV	(560)
Dec. 1963-Oct. 1964	Vol. XV	(561)
Dec. 1964-Oct. 1965	Vol. XVI	(562)
Dec. 1965-Oct. 1966	Vol. XVII	(563)*

Five Year Index (Dec. 1954-Oct. 1959) (550)
TEN YEAR INDEX (Dec. 1954-Oct. 1964) (551)

**Available Spring 1967*

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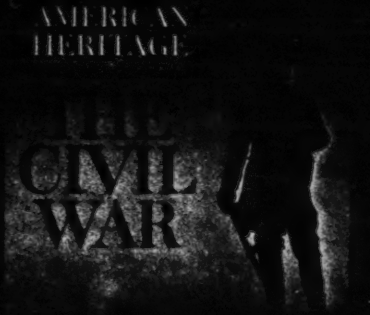
AMERICAN HERITAGE

GREAT
HISTORIC
PLACES

AMERICAN HERITAGE BOOKS

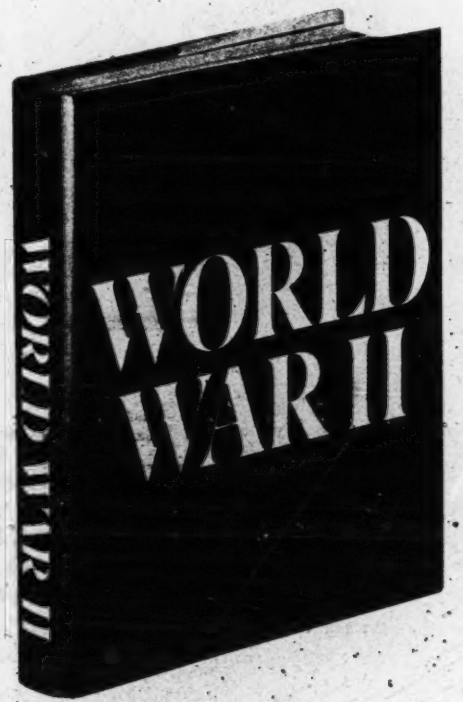
THE
PIONEER
SPIRIT

INDIANS



THE AMERICAN HERITAGE
PICTURE HISTORY OF

WORLD WAR II



This remarkable "best seller" is the largest, most inclusive single-volume picture history of World War II ever published. It covers the sweep, the drama, and the tragedy of that global cataclysm with the immediacy and impact that only great pictures can evoke.

The book is designed to convey a balanced understanding of the complex, scattered events of those momentous years, from the war's origin in 1919 to its murky aftermath. The story unfolds in an unparalleled succession of great photographs and pictures and their succinct captions, and in the running narrative of *C. L. Sulzberger*, the authoritative and skilled journalist who saw much of the war at first hand and was personally acquainted with many of its leading characters.

In addition, the book is highlighted by quotations from men and women who recorded the historic actions they witnessed.

The big, 640-page volume (8½" by 11") contains 725 pictures, including 140 that have never been published in this country.

The DE LUXE EDITION divides the book into two volumes, both bound in extra-heavy buckram, boxed in a handsome slipcase. A 40-page *Chronology of World War II*, inserted between the two volumes, lists important wartime events, and provides pertinent notes on all principal government and military leaders.

EXTRA: The American Heritage LP Record *Historic Voices and Music from World War II.* A Robert Lewis Shayon production.

640 Pages Regular Edition $19.95 De Luxe Edition $24.95

READERS' PRICE: $15.95 (427) • DE LUXE EDITION: $20.95 (428)

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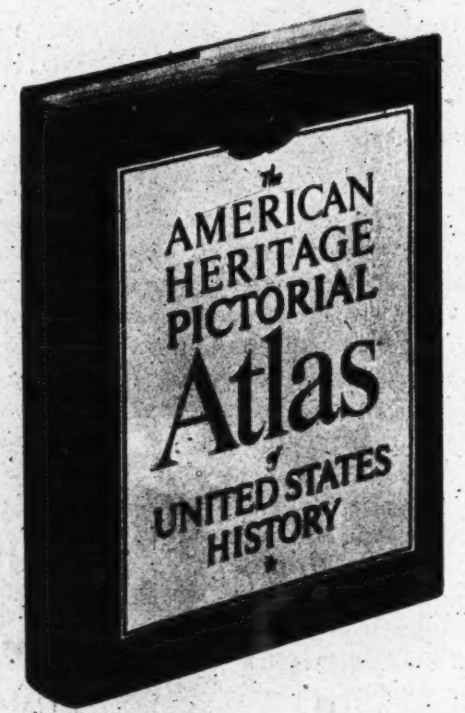
THE
AMERICAN HERITAGE PICTORIAL

ATLAS

OF UNITED STATES HISTORY



This is the first thoroughgoing American historical atlas to be published since 1932, the first ever to be designed for reading as well as reference.

It is a *history* of America made newly exciting by the modern use of cartography. It is an *atlas* made eminently attractive and informative by means of many historical pictures, extensive use of color, and a running narrative of some 60,000 words. This narrative is the work of five well-known historical journalists: Roger Butterfield, Bruce Catton, John A. Garraty, Alvin M. Josephy, Jr., and Stephen W. Sears.

Two hundred and ten new maps graphically position, identify, and clarify important chapters of the American story, from the last glacial epoch in North America to the U.S. involvement in Vietnam. In addition, many of the new maps present a variety of political and socioeconomic data.

Other features include: period illustrations that give visual reality to specific times and places; color portfolios showing remarkably detailed views of American Revolution and Civil War battles, and America's natural wonders; mid-19th-century city views.

432 Pages Regular Edition $16.50 De Luxe Edition $19.00

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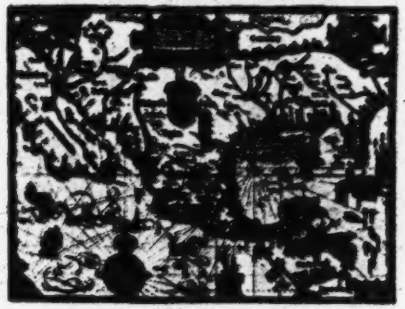
FAMOUS EARLY

MAPS OF AMERICA



These color gravure reproductions cover almost 300 years of exploration.

Size: 1½ by 2 feet. Heavy paper. Mailed in a tube. Story of each map on its back.

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A MARINER'S GUIDE TO THE NEW WORLD, ca. 1546. A view of the Spanish Main. **(504)**

THE KNOWN GLOBE—1667, by Pieter Goos. An ornate 17th-century world map. **(505)**

THE NEW NETHERLANDS AND NEW ENGLAND—1635, by the great Willem Blaeu. **(506)**

THE NEW WORLD—1600, by Gabriel Tatton. A map of a century of discovery. **(507)**

NEW FRANCE—1745, by Reiner Ottens. The French Empire in America. **(508)**

THE FIRST AMERICAN MAP OF THE UNITED STATES, by Abel Buell, 1784. **(509)**

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WATER-COLOR PAINTINGS BY
JOHN JAMES

AUDUBON

FOR THE BIRDS OF AMERICA

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The 7,500-word introduction is by Marshall B. Davidson, Audubon authority and Senior Editor of HORIZON.

The captions for each plate appear opposite the pictures or on the preceding pages. The editors frequently use Audubon's own words from his "Ornithological Biography," and each picture is thoroughly annotated.

Three front-rank authorities in the fields of art history, botany, and ornithology have served as consultants:

Edward H. Dwight, Director of the Museum of Art, Munson-Williams-Proctor Institute, Utica, New York, has made the most thorough study to date of Audubon's originals.

Dr. Harold W. Rickett, Senior Botanist, The New York Botanical Gardens, has given the common and scientific names to every identifiable plant and flower.

Dr. Dean Amadon, President of the American Ornithologists Union, has updated and, where required, corrected Audubon's identifications.

There are 431 color reproductions on the book's 852 pages. Only 57 pages carry two prints; there are 256 full-page prints, and 64 that cover two pages, many of them "gatefolds." The acid-free paper was especially made for this one edition. It will not deteriorate for several centuries.

The matched volumes are bound in rich Osnaburg buckram cloth, stamped in gold, and housed in a slipcase with a Cockerell paper design. Size: 10⅛" x 13¼". Weight: 14 pounds. Indexed.

852 Pages Retail Price $75

READERS' PRICE: $55 (424)

THE AMERICAN HERITAGE HISTORY OF

WORLD WAR I

"The Great War" claimed 10,000,000 lives, wounded 20,000,000, and radically changed the world. Here is the record of those earth-shaking years in one authoritative volume. There are 384 pages, 300 pictures (66 in color), and 66 battle maps. The narrative is by General S. L. A. Marshall. *The New York Times Book Review:* "This fine text and picture history is the best of its kind so far, and I doubt very much that anyone is going to top it."

EXTRA: The American Heritage LP Record *World War I, Historic Music and Voices,* narrated by Charles Collingwood.

384 Pages *Regular Edition $16.50* *De Luxe Edition $19.00*

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PICTURE HISTORY OF

THE CIVIL WAR

THE CIVIL WAR is the first illustrated history to receive a Pulitzer Prize. Bruce Catton, the most honored Civil War historian, wrote the narrative, which covers military, political, social, and economic history of the war.

This massive volume contains 160,000 words and 836 illustrations, 266 in color. Size: 9" x 11¼". Indexed.

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The introduction is by John Fitzgerald Kennedy.

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The cast of characters is as colorful as any nation can boast —from Long Hunter Daniel Boone to "Cattle Kate" Watson. The book measures 8½" x 11", with 416 pages and 458 illustrations, 113 in color—many never before published.

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The 70,000-word narrative is by Arthur Gordon. There are 450 pictures (about 100 in color). C. H. Gibbs-Smith, Victoria and Albert Museum; and Marvin W. McFarland, Library of Congress Aeronautics Division, acted as consultants.

The introduction is by Generals Carl Spaatz and Ira C. Eaker. The Editor-in-charge is Alvin M. Josephy, Jr. Indexed.

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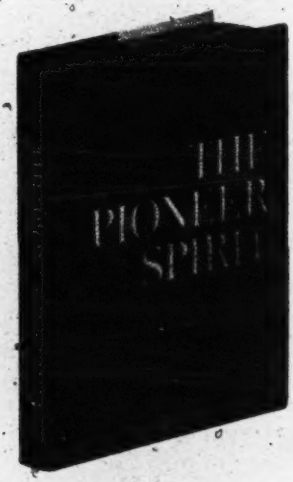

THE AMERICAN HERITAGE
BOOK OF

THE PIONEER SPIRIT

The peculiarly American trait we have come to label "the pioneer spirit" has not been limited to the westward journey. It has infused every facet of our history and national life.

This large volume examines the growth of the spirit through the lives of men and women who personify it. There are four authors: Dr. Allan Nevins, Peter Lyon, Alvin M. Josephy, Jr., and Francis Russell.

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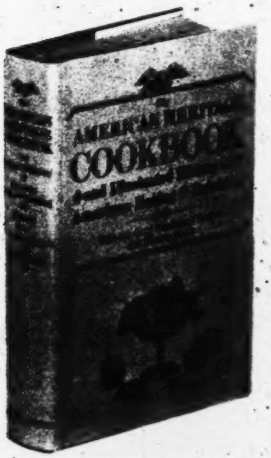

THE AMERICAN HERITAGE
COOKBOOK
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READERS' PRICE: $2.00 (712)

CHURCHILL

THE LIFE TRIUMPHANT

This handsome volume, with an introduction by Dwight D. Eisenhower, is an authoritative pictorial record and brief biography of the most famous man of our age.

Narrative by Henry Anatole Grunwald; hard covers, 8¾" x 11¼"; 144 pages; 152 pictures, 32 in color; and 32-page document section. Created with United Press International.

HORIZON

"The magazine that says what civilization is" first appeared in *September, 1958.* Its field is world civilization—the history of many cultures over many centuries. The dozen or more articles in each issue are devoted to archaeology, the fine and lively arts, philosophy, letters, manners, and great men and eras of the past. Among the magazine's contributors are many of today's leading scholars, critics, and authors: Morris Bishop, H. R. Trevor-Roper, Arnold Toynbee, Gilbert Highet, Arthur Koestler, John Canaday, M. I. Finley, Robert Graves, Compton Mackenzie, J. B. Priestley, Loren Eiseley....

HORIZON's format is lasting: hard covers, no advertising. In every issue there are about 100 illustrations, a third or more in superbly reproduced color. The magazine measures 9¼" by 12¼", and contains 120 pages.

HORIZON is published quarterly, in January, April, July, and October. (From 1958 through 1963 it appeared bimonthly.)

PRICES: *$5 a copy, $16 a year (four issues)*
Code number for your own subscription order **(1001)***
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BACK ISSUES OF HORIZON

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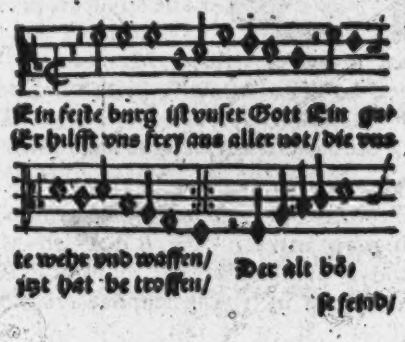
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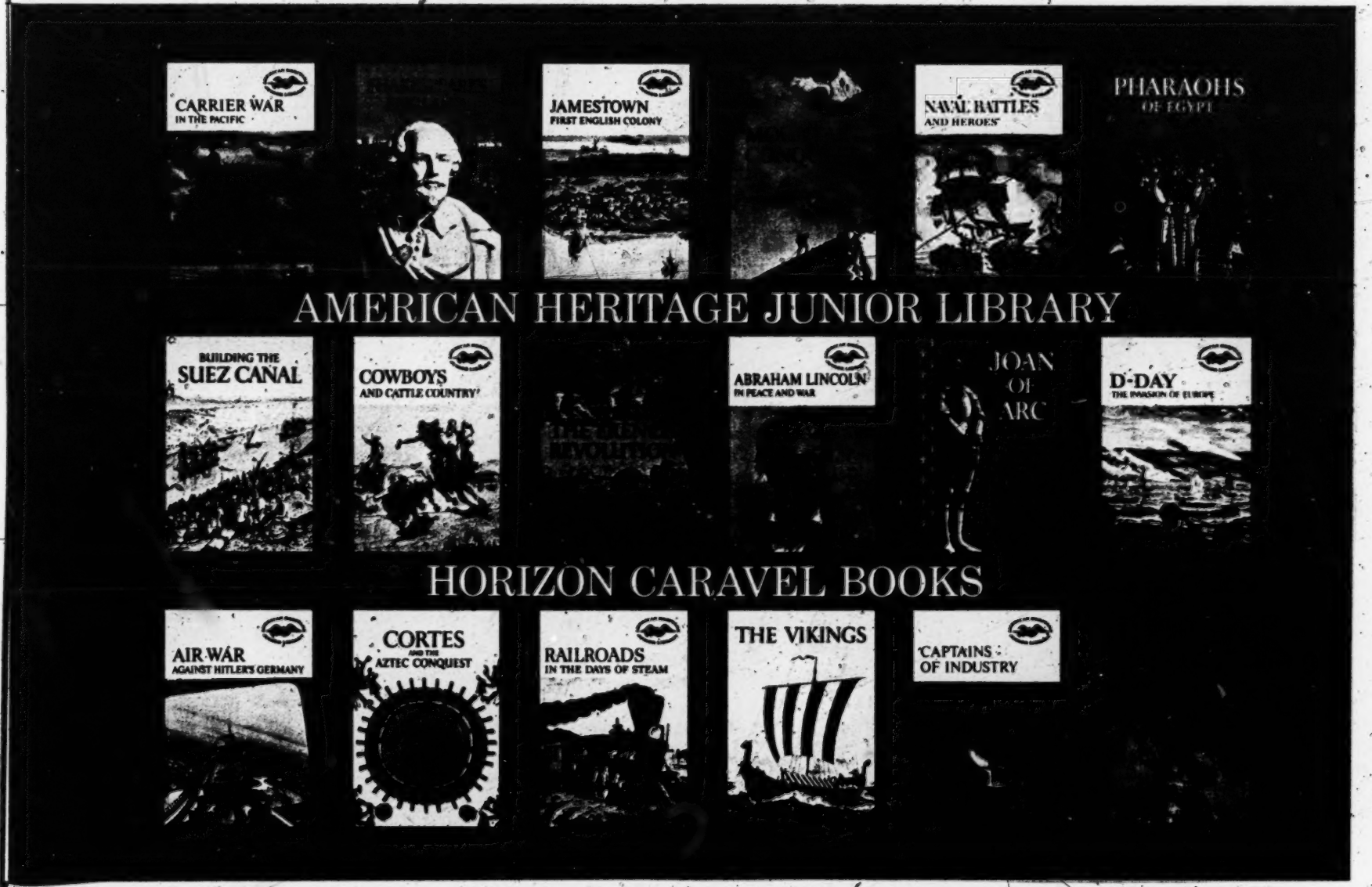
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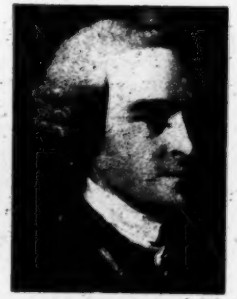

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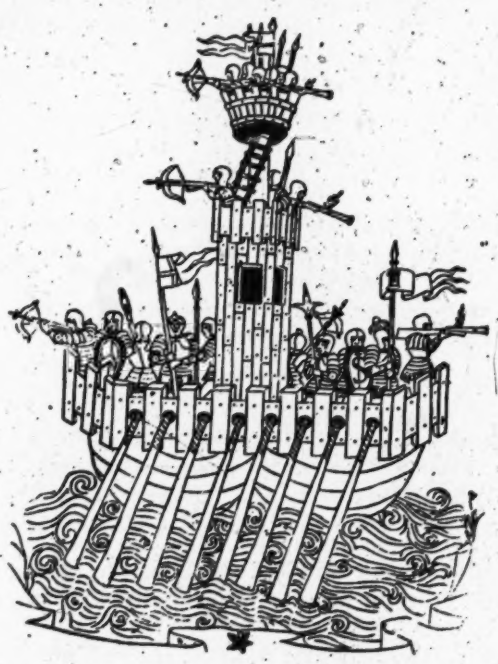

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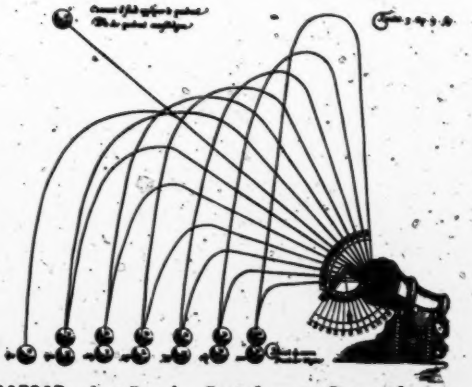

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